

House Study Bill 748

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON DRAKE)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to requirements for open feedlot operations, by
2 providing for nutrient management plans and operating permits,
3 and providing an effective date and retroactive applicability.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6521HC 81
6 da/je/5

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1 1 Section 1. NEW SECTION. 459A.202 OPERATING PERMIT
1 2 REQUIREMENTS.
1 3 1. The owner of an open feedlot operation qualifying under
1 4 this section shall apply for an operating permit on or before
1 5 July 31, 2007.
1 6 2. Except as provided in subsection 3, an open feedlot
1 7 operation qualifies under this section if all of the following
1 8 apply:
1 9 a. The open feedlot operation commenced operation prior to
1 10 April 14, 2003, and the physical facilities of the open feed
1 11 lot operation have not expanded since that date.
1 12 b. The open feedlot operation was not required to be
1 13 issued an operating permit prior to April 14, 2003, but is
1 14 required to obtain an operating permit on and after that date,
1 15 pursuant to all of the following:
1 16 (1) Rules adopted by the department, including but not
1 17 limited to rules adopted as part of 567 IAC ch. 65, that were
1 18 in effect prior to April 14, 2003, and have been subsequently
1 19 amended.
1 20 (2) Regulations adopted by the federal government,
1 21 including but not limited to the environmental protection
1 22 agency as a part of 40 C.F.R. pts. 122 and 412, that were in
1 23 effect prior to April 14, 2003, and have been subsequently
1 24 amended.
1 25 3. An open feedlot operation does not qualify under this
1 26 section if the open feedlot operation is required by the
1 27 department to be issued an operating permit only because of
1 28 special conditions determined applicable by the department
1 29 according to the results of a departmental evaluation as
1 30 established by rules adopted by the department.
1 31 4. This section is repealed on July 1, 2009.
1 32 Sec. 2. Section 459A.205, subsection 3, paragraph a, Code
1 33 Supplement 2005, is amended to read as follows:
1 34 a. For an open feedlot operation submitting an application
1 35 for a construction permit on or after ~~September~~ April 30, ~~2006~~
2 1 2007, a nutrient management plan as provided in section
2 2 459A.208.
2 3 Sec. 3. Section 459A.208, subsection 1, Code Supplement
2 4 2005, is amended to read as follows:
2 5 1. a. The owner of an open feedlot operation which has an
2 6 animal unit capacity of one thousand animal units or more or
2 7 which is required to be issued an operating permit shall
2 8 develop and implement a nutrient management plan meeting the
2 9 requirements of this section ~~by December 31, 2006.~~
2 10 b. (1) The owner of an open feedlot operation shall
2 11 comply with the provisions of paragraph "a" by July 31, 2007.
2 12 (2) This paragraph "b" is repealed on July 31, 2007.
2 13 Sec. 4. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
2 14 This Act, being deemed of immediate importance, takes effect
2 15 upon enactment, and is retroactively applicable to February
2 16 13, 2006.
2 17

EXPLANATION

2 18 This bill amends a provision in Code chapter 459A, which
2 19 authorizes the department of natural resources to regulate
2 20 open feedlot operations, and supplements provisions in Code
2 21 chapter 459, which authorize the department of natural
2 22 resources to regulate all animal feeding operations. Much of
2 23 the bill concerns nutrient management plans required to be
2 24 developed and implemented by owners of open feedlot operations
2 25 and requirements for operating permits which are not
2 26 specifically addressed in the Code chapter, but are subject to
2 27 rules adopted by the department of natural resources in
2 28 accordance with requirements for concentrated animal feeding
2 29 operations required by the United States environmental
2 30 protection agency under the national pollutant discharge
2 31 elimination system.

2 32 The United States environmental protection agency has
2 33 recently amended requirements that provide that an open
2 34 feedlot operation that would not have been considered as a
2 35 concentrated animal feeding operation prior to April 14, 2003,
3 1 is considered a concentrated animal feeding operation after
3 2 that date and must: (1) develop and implement a nutrient
3 3 management plan by February 13, 2006, and (2) obtain a
3 4 national pollutant discharge elimination system operating
3 5 permit by December 31, 2006. The United States environmental
3 6 protection agency has revised these deadlines to provide that
3 7 a concentrated animal feeding operation must develop and
3 8 implement a nutrient management plan and seek a national
3 9 pollutant discharge elimination system permit by July 31,
3 10 2007. See 40 C.F.R. pts. 122 and 412. The revisions of the
3 11 regulations were made in response to a court decision,
3 12 Waterkeeper Alliance et al. v. E.P.A., 399 F.3d 486 (2nd Cir.
3 13 2005).

3 14 The bill extends the date when an owner of an open feedlot
3 15 operation is required to comply with nutrient management plan
3 16 requirements in Code chapter 459A or obtain an operating
3 17 permit under national pollutant discharge elimination system
3 18 and departmental rules. Code section 459A.205 provides that
3 19 an application for a construction permit must be accompanied
3 20 by the nutrient management plan on or after September 30,
3 21 2006. The bill extends that date to April 30, 2007. Code
3 22 section 459A.208 provides that an open feedlot operation of
3 23 1,000 or more animal units or one that would otherwise be
3 24 required to be issued an operating permit must develop a
3 25 nutrient management plan by December 31, 2006. The bill
3 26 extends that date to July 31, 2007.

3 27 Finally, the bill provides that the owner of an open
3 28 feedlot operation qualifying under the provisions of the bill
3 29 has until July 31, 2007, to apply for an operating permit.
3 30 The bill provides that the open feedlot operation does not
3 31 qualify for the extension if the open feedlot operation is
3 32 required by the department to be issued an operating permit
3 33 only because special conditions exist according to the results
3 34 of a departmental evaluation. See 567 IAC=65.103.

3 35 The bill repeals a number of the extension periods after
4 1 the extension periods have expired.

4 2 The bill takes effect upon enactment and is retroactively
4 3 applicable to February 13, 2006.

4 4 LSB 6521HC 81

4 5 da:nh/je/5